

EXHIBIT A

Wellington Risk Insurance Agency, Inc.
June 1, 2015

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June 1, 2015

DTPA DEMAND

Via Certified Mail, RRR

No. 7014 1820 0000 0799 6202

Wellington Risk Insurance Agency, Inc.
6801 Calmont Avenue
Fort Worth, Texas 76116-4108

RE: Client/Insured : Jesus Cavazos and Ana Cavazos
Policy No. : COC-64653
Claim No.(s) : CPA-5549
Property Address : 410 Gage Loop, Laredo, Texas 78046
Total Demand : \$90,052.57
Actual Damages : \$81,552.57
Attorney's Fees : \$8,500.00
Expiration : 60 Calendar Days

Dear Claims Department:

Please accept this letter as formal written notice of representation by this law firm of the above insured, Jesus Cavazos and Ana Cavazos, regarding the above numbered claim and listed property, as well as all damages related thereto. This law firm is the sole representative of Jesus Cavazos and Ana Cavazos as it relates to all matters pertaining to the above mentioned claim and property.

As Wellington Risk Insurance Agency, Inc. knows, Jesus Cavazos and Ana Cavazos suffered immediate and severe damage to their residential property as a result of an intense storm that occurred on or around 5/9/2014. In the aftermath, Jesus Cavazos and Ana Cavazos relied on

INSURED JESUS CAVAZOS AND ANA CAVAZOS'S DTPA DEMAND LETTER

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their insurance company and agents to help with their incredible monetary loss. Specifically, Wellington Risk Insurance Agency, Inc. and others conspired to, and improperly adjusted Jesus Cavazos and Ana Cavazos's claim so that they would not receive the coverage they had originally contracted to receive. Thus, this demand is now necessary to recover damages arising from its unfair refusal to pay insurance benefits as represented by the specific insurance policy sold to Jesus Cavazos and Ana Cavazos. Accordingly, Jesus Cavazos and Ana Cavazos now seeks relief under Texas common law, the Deceptive Trade Practices-Consumer Protection Act, and numerous provisions within the Texas Insurance Code.

I. BACKGROUND FACTS

On or around 5/9/2014, the city of Laredo, Texas, and its surrounding cities and counties suffered extensive storm-related damage. This event caused severe and continuing destruction to my client's property located at 410 Gage Loop, Laredo, Texas 78046. As Wellington Risk Insurance Agency, Inc. must concede, and as any proper investigation by Wellington Risk Insurance Agency, Inc. will yield, incredible damage and loss was suffered by my client's property due to storm-related events.

To date, this case remains unpaid or dramatically underpaid. Accordingly, this DTPA Demand is being sent as an opportunity for Wellington Risk Insurance Agency, Inc. to settle this case without further cost to Wellington Risk Insurance Agency, Inc., and without it having to face an unsympathetic Texas jury regarding a loss that should have been paid months ago. However, as this has not occurred, the following claims and causes of action will be available to my client pursuant to Texas common law, the Deceptive Trade Practices Act and the Texas Insurance Code.

II. CAUSES OF ACTION

A. DECEPTIVE TRADE PRACTICES – VIOLATIONS OF THE TEXAS INSURANCE CODE

The conduct of Wellington Risk Insurance Agency, Inc. in this matter constitutes false, misleading and deceptive acts and practices in violation of the *Texas Deceptive Trade Practices – Consumer Protection Act*, specifically because of its:

Unwarranted denial of full payment of Jesus Cavazos and Ana Cavazos's claim;

Failure to communicate pertinent information to Jesus Cavazos and Ana Cavazos;

Failure to conduct a reasonable investigation of the claim;

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- Refusal to pay the claim in full without investigating;
 - Failure to deny or pay the claim within a reasonable period of time;
 - Failure to confirm or deny coverage within a reasonable period of time;
 - Failure to attempt to come to a fair and reasonable settlement when liability is clear;
 - Offering substantially less money to settle than the true value of the claim;
 - Failure to promptly provide a reasonable explanation for denial of a claim;
 - Failure to enter into any negotiations for settlement of the claim; and/or
 - Failure to respond to a time-limit demand.

Additionally, Wellington Risk Insurance Agency, Inc. knowingly and intentionally engaged in unfair settlement practices by failing to timely affirm or deny coverage of Jesus Cavazos and Ana Cavazos's claim. It is a violation of the Texas Insurance Code for an insurer to fail to affirm or deny, *within a reasonable time*, coverage of a claim to a policyholder, including Jesus Cavazos and Ana Cavazos. In addition, should Wellington Risk Insurance Agency, Inc. repeatedly request irrelevant information and documentation despite having all pertinent and necessary items, statements, and forms to fully evaluate Jesus Cavazos and Ana Cavazos's claim, Wellington Risk Insurance Agency, Inc. is in violation of the Texas Insurance Code.

B. UNFAIR SETTLEMENT PRACTICES

The Texas Insurance Code expressly prohibits certain unfair settlement practices as they relate to claims by insured parties or beneficiaries of insurance policies. Based upon the conduct of Wellington Risk Insurance Agency, Inc. to date, Wellington Risk Insurance Agency, Inc. has thus far committed the following prohibited practices:

- Misrepresenting a material fact or policy provision relating to coverage;
- Failing to make prompt, fair, and equitable settlement of a claim after the insurer's liability is established;
- Failing to promptly and fairly settle a claim under one portion of a policy in order to influence the claimant to settle an additional claim under another portion of the coverage;
- Failing to promptly provide a reasonable explanation of the basis for denial of a claim or for the offer of a compromise settlement;
- Failing to affirm or deny coverage of a claim or to submit a reservation of rights within reasonable time;

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Refusing, failing, or delaying an offer of settlement under applicable first-party coverage on the basis that other coverage may be available or that other parties may be liable for damages, unless specifically provided in the policy; and/or

Refusing to pay a claim without conducting a reasonable investigation of the details of the claim.

C. PROMPT PAYMENT OF CLAIMS

The Prompt Payment of Claims Statute provided in the Texas Insurance Code imposes certain deadlines for an insurance company to acknowledge, investigate, and accept or reject a claim. The Supreme Court has stated that *'If an insurance company violates the statute and the insured party can prove the existence of coverage, then the insurer can be held liable for attorney's fees and an additional 18% per annum in addition to the amount of the claim.'* Additionally, insurance companies must request from the claimant all items, statements, and forms that the insurance company reasonably believes will be required from the claimant. Multiple requests may be permitted when reasonably necessary, but multiple, incremental and meaningless requests are an absolute violation of the statute.

At this point in time, Wellington Risk Insurance Agency, Inc. is clearly barred from claiming that Wellington Risk Insurance Agency, Inc. has not received all information relevant to evaluating Jesus Cavazos and Ana Cavazos's claim. Moreover, Wellington Risk Insurance Agency, Inc. has made no offer to settle for an amount that reasonably reflects the value of Jesus Cavazos and Ana Cavazos's loss. Finally, no valid reason was given for the actions taken by Wellington Risk Insurance Agency, Inc., as outlined above.

D. NEGLIGENCE, COMMON LAW FRAUD, MISREPRESENTATION & NONDISCLOSURE

As Wellington Risk Insurance Agency, Inc. knows, when a claim is made under an insurance policy, the insured party may feel that the coverage provided by the insurance company is less than what was represented or promised to them by the insurance company or its agent at the time of sale. If an insurance company or its agent promises one thing and then fails or refuses to fulfill that promise, they can be held liable for negligence, fraud, misrepresentation, and/or nondisclosure.

Insurance companies and their agents have an obligation to clearly and fully disclose any limitation or exclusions an insurance policy may contain. If they fail to adequately disclose such limitations or exclusions and then later use them as a reason for denying a claim by the insured, they may be liable under Texas law. These rules exist to protect insured parties from the unfair or negligent practices of insurance companies.

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E. BREACH OF CONTRACT

Jesus Cavazos and Ana Cavazos entered into a valid and enforceable written insurance contract pursuant to the laws of Texas. The contract provided Jesus Cavazos and Ana Cavazos would pay policy premiums for their insurance policy, and that Wellington Risk Insurance Agency, Inc., their insurance company, would provide coverage for their claims in the event of storm related damage. Jesus Cavazos and Ana Cavazos fully performed their contractual obligations by making policy premium payments as required by their insurance contract.

Wellington Risk Insurance Agency, Inc. has materially breached the contract by failing to provide adequate coverage following the claim filed by Jesus Cavazos and Ana Cavazos. Moreover, despite filing a claim which notified Wellington Risk Insurance Agency, Inc. of their loss, Jesus Cavazos and Ana Cavazos has yet to receive full compensation as required by the insurance contract.

F. BREACH OF FIDUCIARY DUTY

Wellington Risk Insurance Agency, Inc. has a fiduciary relationship, or in the alternative, a relationship of trust and confidence with Jesus Cavazos and Ana Cavazos. As a result, Wellington Risk Insurance Agency, Inc. has a legal duty of good faith and fair dealing to the policyholder. Wellington Risk Insurance Agency, Inc. breached that fiduciary duty in that:

The subject transaction was not fair and equitable to Jesus Cavazos and Ana Cavazos;

Wellington Risk Insurance Agency, Inc. did not make reasonable use of the confidence that Jesus Cavazos and Ana Cavazos placed in it;

Wellington Risk Insurance Agency, Inc. did not act in the utmost good faith and did not exercise the most scrupulous honesty towards Jesus Cavazos and Ana Cavazos;

Wellington Risk Insurance Agency, Inc. did not place the interests of Jesus Cavazos and Ana Cavazos before its own, and it used the advantage of its position to gain a benefit for itself at the expense of Jesus Cavazos and Ana Cavazos;

Wellington Risk Insurance Agency, Inc. placed itself in a position where its self-interest might conflict its obligations as a fiduciary; and/or

Wellington Risk Insurance Agency, Inc. did not fully and fairly disclose all important information to Jesus Cavazos and Ana Cavazos concerning the sale of the policy.

Disputes periodically occur between the insured and the insurer regarding representations made at the time of sale of an insurance policy such as the one at issue. However, most of the time, as in this case, the insured places into the insurer a level of trust and confidence. The insurer thereby develops a fiduciary relationship with the insured. Wellington Risk Insurance Agency,

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Inc. and its agents breached that trust with Jesus Cavazos and Ana Cavazos, and Wellington Risk Insurance Agency, Inc. is therefore liable for Jesus Cavazos and Ana Cavazos's damages for breach of fiduciary duty.

III. CONCLUSION

Jesus Cavazos and Ana Cavazos has incurred considerable damages as a result of the mishandling of their insurance claim. For your convenience, please see the accompanying estimate and photographic evidence from Insight Appraisal and Estimate Services illustrating the severity of the devastation and associated costs required to properly repair the damage. When looking at all the evidence available in this matter, it would most certainly be enough to convince a jury to reward a substantial judgment of actual and penalty damages against Wellington Risk Insurance Agency, Inc. in this case. Taking into consideration the undisputed and irrefutable evidence that exists, the fact that a substantial judgment would likely be awarded against Wellington Risk Insurance Agency, Inc. by a jury, and in order to avoid further litigation, we are offering to settle this matter for a total of \$90,052.57 which includes actual damages in the amount of \$81,552.57, and attorney's fees in the amount of \$8,500.00.

We reserve the right to adjust the above amounts to conform to the information and evidence that will become available during the time leading up to trial, should litigation become necessary. This includes additional attorney's fees, Court costs and all applicable accrued pre-judgment and penalty interest allowed by Texas law.

IV. SETTLEMENT AND RELEASE

The purpose of this letter is to encourage Wellington Risk Insurance Agency, Inc. to resolve this matter in a fair and equitable manner without the need for further legal action. In the event Wellington Risk Insurance Agency, Inc. fails to respond to this letter with an offer of settlement that is acceptable, Jesus Cavazos and Ana Cavazos will have no alternative but to instruct our firm to file a lawsuit against Wellington Risk Insurance Agency, Inc.. The lawsuit will be filed under the *Texas Deceptive Trade Practices – Consumer Protection Act* and the *Texas Insurance Code*, as well as the other authorities outlined above.

In such lawsuit, rather than seeking only the monetary amount we are now asking for, we will seek to recover the full measure of damages, expenses and attorney's fees incurred, as allowed by law. To that end, this correspondence also acts as formal notice under §38 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, of intent to seek attorney's fees in this matter. Ultimately, the amount of damages awarded by a jury will increase dramatically.

This demand is conditioned upon delivery of written acceptance prior to the expiration of 60

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calendar days from the date of its receipt of this demand. For its convenience, a settlement check will be held in trust until a release has been fully executed. Said release will be sent via mail to its attention at its office location.

Wellington Risk Insurance Agency, Inc. has long been provided with copies of all records and information relevant to evaluating this claim. We, therefore, consider Wellington Risk Insurance Agency, Inc. in a position to act promptly on this demand. After the expiration of 60 calendar days from the date of its receiving this demand, the demand is withdrawn. We reserve the right to then proceed against Wellington Risk Insurance Agency, Inc. personally for the full extent of all possible damages.

In regard to the above demand, be aware that this law firm has been assigned an attorney's fee interest in any and all claim(s) related to the above policy and would appreciate it if Wellington Risk Insurance Agency, Inc. will limit contact to us for any information or assistance with respect to said claim(s). In addition, please send any future payments related to the above policy to this law firm's address for handling, with The Voss Law Firm, P.C. named as an additional payee to secure our interest in attorney's fees.

Additionally, please immediately provide me a payment log indicating all payments made and to whom they were made; also include a brief description of the purpose of each payment regarding this claim. Moreover, consistent with Jesus Cavazos and Ana Cavazos's rights under the policy, please immediately forward any and all copies of the following to our attention:

Underwriting file, including the policy, application, amendments, etc.;

Letters sent to/from Jesus Cavazos and Ana Cavazos;

A full copy of the claims file;

All documents regarding the processing of the above claim;

A description outlining why the above claim has not been paid in full;
its file notes;

Videos taken/received regarding the above claim;

Photographs taken/received regarding the above claim;

All investigative reports regarding the above claim; and/or

All engineering reports regarding the above claim.

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We consider this entire letter a pertinent communication with respect to the resolution of this case. A prompt response is therefore expected.

Respectfully submitted,



Tyler Bleau
Attorney at Law
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TMB
Enclosure: Estimate